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CITIZENS' LAW ENFORCEMENT REVIEW BOARD

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FINAL NOTICES

The Citizens' Law Enforcement Review Board made the following findings in the closed session portion of its October 8, 2013 meeting, held at the San Diego County Administration Center, 1600 Pacific Highway, Room 302/303, San Diego, CA 92101. Minutes of the open session portion of this meeting will be available following the Review Board's review and adoption of the minutes at its next meeting. Meeting agendas, minutes, and other information about the Review Board are available upon request or at www.sdcountry.ca.gov/clerb.

CLOSED SESSION

- a) **Discussion & Consideration of Complaints & Reports / Officer Discipline Recommendation:** Pursuant to Government Code Section 54957 to hear complaints or charges brought against Sheriff or Probation employees by a citizen (unless the employee requests a public session). Notice pursuant to Government Code Section 54957 for deliberations regarding consideration of subject officer discipline recommendation (if applicable).
- b) **Evaluation of Executive Officer** – Notice pursuant to Government Code Section 54957.

DEFINITION OF FINDINGS	
Sustained	The evidence supports the allegation and the act or conduct was not justified.
Not Sustained	There was <u>insufficient evidence</u> to either prove or disprove the allegation.
Action Justified	The evidence shows the alleged act or conduct did occur but was lawful, justified and proper.
Unfounded	The evidence shows that the alleged act or conduct did not occur.
Summary Dismissal	The Review Board lacks jurisdiction or the complaint clearly lacks merit.

CASES FOR SUMMARY HEARING (11)

ALLEGATIONS, FINDINGS & RATIONALE

12-083

1. Misconduct / Procedure – Deputy 4 refused to accept proof that the complainant lived at his residence.

Board Finding: Not Sustained

Rationale: A property owner called San Diego Sheriff Communications to report that the complainant was trespassing on his property. The property owner told Deputy 4 that the former tenant of the property had moved approximately two weeks earlier and that the complainant, not listed on any lease agreement, did not have any right to be in the home. The complainant said he attempted to tell deputies he lived in the residence, received mail there, and they had no right to remove him. Deputy 4 denied that he refused the complainant's proof of residency. The complainant became aggravated at the deputies' questioning which prompted Deputy 3 to ask if the complainant had any weapons on his person. He acknowledged he did have a knife in his pocket and Deputy 3 attempted to take control of the weapon. Deputies said the complainant became agitated and resisted their actions resulting in the use of force. Deputies subsequently arrested the complainant for violation of Penal Code § 148, Resist, Obstruct, Delay of Peace Officer. The arrest precluded any further questions of the complainant pertaining to his residence, and there was insufficient evidence to either prove or disprove the allegation.

2. Illegal Search – Deputies 2, 3, 4, and 6 entered the complainant’s residence without a warrant or approval.

Board Finding: Action Justified

Rationale: Deputies had probable cause to arrest the complainant for trespassing on private property. While talking with deputies on the porch of the residence the complainant acknowledged he had a knife in his pocket. The complainant stated he then turned to go back into the residence, leaving the front door open, and deputies entered without permission. Deputy 3 said upon learning the complainant had a knife, he directed him to turn around so he could remove the weapon. The complainant then grabbed the porch railing and resisted efforts to gain control of his hands, conduct a pat down search, and take possession of a knife. Deputies 2, 4, and 6 assisted in the attempted retrieval of the weapon with the resultant struggle moving the complainant and deputies into the living room of the residence. A warrantless entry into a residence is lawful based on an objectively reasonable basis for fearing that violence is imminent. The complainant was known to have a weapon and resisted deputies’ efforts to disarm him constituting an immediate threat to deputies’ safety. The evidence showed the alleged act did occur but was lawful, justified and proper.

3. Excessive Force – Deputy 3 put the complainant in a choke hold causing him to fall to the floor.

Board Finding: Action Justified

Rationale: The complainant stated, after he and the deputies moved into the residence one of the deputies put him in a choke hold and he fell to the ground. Deputies 2, 3, 4, and 6 attempted to gain control of the actively resistant complainant, and during the struggle, Deputy 3 placed his arm around the complainant’s neck and thrust his hips forward to take him to the floor. Once on the floor Deputy 3 released the neck hold and attempted to handcuff the complainant. Sheriff’s Use of Force Guidelines, authorizes hands-on control to overcome resistive or aggressive behavior. The evidence showed the alleged act did occur but was lawful, justified and proper.

4. Excessive Force – Deputies 2, 3, 4, and 6 hit the complainant with batons more than 20 times about the head and body.

Board Finding: Action Justified

Rationale: Deputies 2, 3, 4, and 6 denied that batons were used batons to gain control of the complainant. Deputies 2, 4, and 6 maintained control of the complainant’s torso and legs, while Deputy 3 delivered two fist strikes to the complainant’s head to gain compliance. Local hospital and Sheriff’s Medical documentation was not consistent with injuries expected of baton hits to the head and body. Department Policy and Procedure Addendum F Section – Use of Force Guidelines, authorizes hands-on control as a means of overcoming resistive behavior, and the evidence showed the actions as alleged did not occur, but the force used by deputies was lawful, justified and proper.

5. Excessive Force – Deputies 2, 4, and 6 walked on the complainant’s back and legs while he was lying prone on the ground.

Board Finding: Action Justified

Rationale: Deputies 2, 4, and 6 denied walking on the complainant’s back and legs. Deputies used reasonable and necessary force to gain control of the actively resistant complainant. Deputy 2 placed his left knee on the lower right side of the complainant’s back in order to keep him on the floor, Deputy 4 grabbed the complainant’s legs to assist in taking him to the ground and continued to hold onto his lower leg as he used body weight to prevent him from kicking or pushing off the ground, and Deputy 6 placed his right knee on the complainant’s left shoulder and used body weight to hold him down. Use of Force Guidelines, authorizes deputies to use their combined weight to gain control of a resisting subject. The evidence showed the alleged act as reported by the complainant did not occur but the force used was lawful, justified and proper.

6. Illegal Seizure – Deputy 3 searched a backpack and seized three batarangs (shuriken).

Board Finding: Action Justified

Rationale: After the complainant was taken into custody, Deputy 2 conducted a records check which revealed

that the complainant had a 4th Amendment Search Waiver valid until 2016. Deputy 3 located a backpack, a pile of clothing, and an inmate property bag with the complainant's picture and date of birth on it. The backpack contained three metal throwing stars (shuriken) shaped into a Batman logo. Possession of a shuriken, a weapon designed for throwing, is a violation of Penal Code § 22410, Shuriken; Prohibition against Manufacture, Importation, Sale or Possession, and as such Deputy 3 seized the weapons. The evidence showed the alleged act did occur but was lawful, justified and proper.

7. Criminal Conduct – Deputy 7 took five valuable Chia Ching coins from the complainant's backpack.

Board Finding: Not Sustained

Rationale: The complainant believed that Deputy 7 took possession of five coins which were in his backpack. Deputies 2 and 6 denied seeing any coins taken from the complainant's backpack. Deputies 3 and 4 did recall seeing coins in the backpack and said the backpack was not seized, and was left at the residence. Evidence seized incident to the arrest included "Batman" Logo throwing stars, a pocket knife, and medieval weapons. No other property items were seized or inventoried. Subsequent to the arrest the property owner removed the complainant's remaining personal property, placed it in storage, and provided the complainant's mother with a key. There was insufficient evidence to either prove or disprove the allegation.

8. Illegal Seizure – Deputies 2, 3, 4, and 6 seized a safe from the complainant's residence and forced him to open it.

Board Finding: Action Justified

Rationale: A safe was discovered during the search of the residence and the complainant refused to provide a combination or open the safe. The complainant had a valid fourth waiver which allowed deputies to search his person and property. The complainant was transported to the Sheriff Station prior to the discovery of the safe. The safe was then transported to the station so the complainant could open it as part of his fourth waiver search. After the complainant opened the safe and did not reveal any contraband, the safe was locked, returned to the residence, and placed with the complainant's property. The evidence showed the alleged act did occur but was lawful, justified and proper.

9. False Arrest – Deputy 3 arrested the complainant for resisting arrest and weapons possession.

Board Finding: Action Justified

Rationale: Deputy 3 responded to a call for service to investigate a possible trespass. During the initial contact the complainant, reported that he had a knife in his pocket, and after additional questioning became agitated and resisted. The complainant resisted the efforts of the deputies in the discharge of their duties as they attempted to retrieve the knife from the complainant, and was arrested for violation of Penal Code § 148, Resist, Obstruct, Delay of Peace Officer or EMT. During a search of the residence throwing stars and a slingshot type weapon were found in violation of Penal Code §§ 22410, Shuriken; Prohibition against Manufacture, Importation, Sale or Possession, and 22210, Sap and Similar Weapons; Prohibition against Manufacture, Importation, Sale or Possession. The evidence showed the alleged act did occur but was lawful, justified and proper.

10. Misconduct / Procedure – Deputy 1 failed to document and/or take a report concerning the complainant's missing personal property and damage caused to his vehicle.

Board Finding: Action Justified

Rationale: The complainant contacted the Sheriff's Department to preserve the peace as he attempted to retrieve his personal property. The complainant presented Deputy 1 with a handwritten note for a rental agreement that was not notarized, legible, or official in appearance. Deputy 1 contacted the property owner, who said the complainant had not lived at that location for four years and was not allowed on the property. The property owner had previously removed the complainant's property, placed it in storage, and delivered a key for the storage unit to the complainant's mother. The complainant said the property owner had moved his truck from the back yard to the street and damaged the truck's ignition. Deputy 1 stated that because of the poor condition of the vehicle he was unable to determine if there had been any damage or evidence of a crime which would have required him to take a report. The evidence showed the alleged act did occur but was lawful, justified and

proper.

11. Illegal Seizure – Deputy 5 towed the complainant’s vehicle without warning.

Board Finding: Action Justified

Rationale: On June 18, 2012, Deputy 5 observed the complainant’s vehicle, last registered in 2002, parked on the street in front of the complainant’s former residence. California Vehicle Code § 22651, Circumstances Permitting Removal of Vehicle, authorizes the removal of vehicles found on a highway, public land, or off-street parking with a registration expiration date in excess of six months before the date it is found. The evidence showed the alleged act did occur but was lawful, justified and proper.

12-086

1. Illegal Seizure – Deputy 3 grabbed the complainant, pulled him from the threshold, handcuffed him, and detained him outside of his residence.

Board Finding: Action Justified

Rationale: The complainant stated that deputies knocked on his door and informed him they were there to perform a 4th waiver search of his home. Deputy 3 stated that the complainant did not move when asked to step outside, so he grabbed him by the arm and moved him out of the doorway, allowing deputies to enter the home to conduct the search of the residence. The complainant was handcuffed and detained while a protective sweep was conducted to determine if others were present in the home. Once the protective sweep concluded the handcuffs were removed. California case law permits deputies to briefly detain individuals present in a residence when doing a 4th waiver search. The evidence showed the alleged acts did occur and were lawful, justified and proper.

2. Illegal Search – Deputies 1-6 searched the complainant’s residence without permission.

Board Finding: Action Justified

Rationale: Deputies 1-6 entered the complainant’s home to conduct a probation search of the residence. The complainant’s two adult sons were on formal probation with 4th Amendment Waivers imposed by the Superior Court of California, and listed the complainant’s home as their official residence. Deputy 5 confirmed the probation terms prior to arrival. California case law permits the conduct of such a search for no reason, without reasonable suspicion or any other particularized suspicion. The evidence showed the alleged conduct did occur but was lawful, justified and proper.

3. Illegal Search – Deputies 1-6 searched areas of the complainant’s residence not included under the probationers’ 4th waiver.

Board Finding: Action Justified

Rationale: The complainant objected to deputies searching his bathroom, closet, and under his bed as they looked for persons hiding in the home. California case law permits protective sweeps or limited, quick, visual inspections of those places where a person who poses a danger to officers or others might be hiding. Deputies 1-6 conducted a protective sweep of the residence, including all common areas and the complainant’s bedroom, to determine if the probationers or any other individuals were present. The evidence showed the alleged conduct did occur but was lawful, justified and proper.

4. Misconduct/Discourtesy – Deputy 7 told the complainant that the deputies’ laughter throughout the search of his residence was “gallows humor.”

Board Finding: Not Sustained

Rationale: While deputies searched the complainant’s residence, he commented about the joking and laughter he heard coming from the deputies. He was unable to identify the deputy that commented about gallows humor, and all deputies on scene denied making any discourteous statements during the encounter with the complainant

or making any comment concerning gallows humor. There is insufficient evidence to either prove or disprove this allegation.

5. Misconduct/Procedure – Deputy 7 “embarrassed the complainant and caused emotional distress” with “juvenile, insulting and unprofessional” behavior(s).

Board Finding: Not Sustained

Rationale: The complainant believed that the deputies’ behavior and demeanor was juvenile, insulting, and completely unprofessional. The senior deputy on scene and the case agent for the contact indicated that the conduct of all deputies on scene was professional during the entire contact. Without further exculpatory evidence, there is insufficient evidence to either prove or disprove this allegation, which is subjective and was not recorded in any way.

12-099

1. Discrimination / Sexual – Deputy 2 said, “Look at the hippie faggot,” or words to that effect.

Board Finding: Not Sustained

Rationale: The complainant stated that while being booked, Deputy 2 said, “Look at the hippie faggot,” or words to that effect. Deputy 2 did not have any recollection of the complainant and denied that he made the statement, to the complainant or any other inmate. There were no witnesses or video evidence to either prove or disprove the allegation.

2. Excessive Force – Deputy 2 slammed the complainant against the wall.

Board Finding: Not Sustained

Rationale: The complainant stated that while being booked, Deputy 2 slammed him up against the wall. During the initial medical evaluation the complainant denied being hurt or injured in the 72 hours prior to arrest, and the complainant made no report of injury during medical intake. Deputy 2 did not have any recollection of the complainant and denied that he used force during the booking process. There were no witnesses or video evidence to either prove or disprove the allegation.

3. Excessive Force – Deputy 4 forcibly pulled the complainant from a cell and slammed him against a wall leaving bruises.

Board Finding: Not Sustained

Rationale: The complainant was assaulted by another inmate in a Booking Cell, after which he said a deputy forcibly pulled him from the cell and slammed him up against a wall. Deputy 4 observed the assault and watched as the complainant exited the cell and quickly walked down the corridor. Deputy 4 followed and told the complainant several times to stop, and when the complainant finally stopped he was escorted away from the Booking area. Deputy 4 denied that force was used in his contact with the complainant and there was no video evidence of the assault or the deputy’s contact. There was insufficient evidence to either prove or disprove the allegation.

4. Misconduct/Procedure – Deputy 5 denied the complainant food from the time of his arrest to his release.

Board Finding: Not Sustained

Rationale: The period of time the complainant was in custody should have resulted in serving him four meals, two lunches, one dinner, and one breakfast. Inmates housed in Booking and Holding Cells are provided bagged meals and there were no discrepancies recorded to indicate meals were not served as required. The complainant was involved in a use of force incident with deputies during the breakfast delivery, after which he was taken to medical for evaluation. No video recordings were available to show meal distribution. There was insufficient evidence to either prove or disprove the allegation.

5. Discrimination / Sexual – Deputies 1 and 3 called the complainant a “faggot.”

Board Finding: Not Sustained

Rationale: Deputies 1 and 3 denied the allegation, and there were no witnesses or additional evidence. There was insufficient evidence to either prove or disprove the allegation.

6. Excessive Force – Deputy 3 threw the complainant to the ground resulting in a scar and injury to his knee.

Board Finding: Action Justified

Rationale: Deputies 1 and 3 were distributing breakfast to inmates on the Second Floor of San Diego Central Jail. The complainant stated the deputies approached his cell door, told him to stop and not take a step when he was thrown to the floor. Deputy 3 reported that he approached the complainant’s cell because the complainant was angry, claimed to have medical issues, and needed to see a nurse. Upon opening the cell door the complainant attempted to walk out and Deputy 3 placed a hand on his chest. The complainant continued to try to move past Deputy 3 and did not follow his instructions. When the complainant raised his arm and broke free from Deputy 3’s grasp, Deputy 3 lifted him off the ground and swept his legs from under his body, causing both Deputy 3 and the complainant to fall to the floor. As authorized by law and Department Policy and Procedure I.89, Use of Force, deputies may use physical force in the performance of their duties when the need for such force is legally justified and necessary, as well as reasonably and legally applied. The evidence showed the alleged act did occur but was lawful, justified and proper.

12-100

1. Misconduct/Procedure – Deputy 1 was “belligerent and threatening” when the complainant attempted to assist his injured cellmate.

Board Finding: Not Sustained

Rationale: The complainant’s cellmate had been injured prior to being arrested, and when assigned to the complainant’s cell, had difficulty getting into the top bunk. Video evidence showed the complainant contacted Deputy 1 during a security check and then again during an inmate count. In the first contact the complainant stated he told Deputy 1 that his cellmate needed to be moved, but did not reveal that he had already moved him. The second contact occurred after it was learned that the complainant already moved his cellmate without authorization. Deputy 1 denied any belligerent or threatening conduct while dealing with the complainant. There were no audio recordings of the contacts to demonstrate belligerent or threatening behavior, therefore there was insufficient evidence to either prove or disprove the allegation.

2. Misconduct/Procedure - Deputy 1 did not process the complainant’s request to speak with a sergeant.

Board Finding: Action Justified

Rationale: The complainant handed Deputy 1 an Inmate Request to relocate his cellmate after he had already moved him to another cell without authority. Deputy 1 acknowledged the complainant verbally requested to speak with a Sergeant and stated he advised him to follow grievance procedure and protocol. Policies and Procedures N.1, Grievance Procedure, allows for the submission of such a grievance related to any condition of confinement; however, there was no written record, grievance or inmate request, related to this matter requesting to speak with a supervisor. Deputy 1’s response to the verbal request to speak with a supervisor did occur but was lawful, justified and proper.

3. Misconduct/Discourtesy – Deputy 1 told the complainant to “get your shit and move to the top bunk,” and exhibited threatening mannerisms.

Board Finding: Not Sustained

Rationale: Deputy 1 denied using any coarse or profane language when talking with the complainant. The complainant’s housing assignment indicated he was assigned to the top bunk in his cell. Deputy 1 stated he told the complainant that there were no medical restrictions which prohibited him from being assigned to a top bunk,

so he should move to the top bunk and allow his cellmate access to the lower bunk. There were no audio recordings of their communication, and therefore there was insufficient evidence to either prove or disprove the allegation.

4. Misconduct/Procedure – Deputy 2 refused or lost the complainant’s money orders.

Board Finding: Action Justified

Rationale: The complainant reported lost or missing money orders sent to him by a family member during transition to the Department’s new postcard-only mail system. In July 2012, notices were posted in all housing modules and visitor lobbies to announce a new Postcard-Only mail procedure to become effective September 1, 2012. After that date, the only acceptable form of non-confidential/legal mail would be postcards and electronic mail messages, and any incoming letter mail would be returned to the sender. Policies and Procedures P.3, Inmate Mail, state that the only acceptable means of posting funds to an inmate’s account is in person at the Information Office of any Sheriff’s Detention Facility or via the Sheriff’s public website. No checks, money orders, or case are accepted through the U.S. mail. The complainant confirmed that all money orders were returned to sender. The evidence shows the alleged conduct of Deputy 2 did occur but was lawful, justified and proper.

5. Misconduct/Procedure – Deputy 2 restricted and/or violated the pro-per inmate’s access to legal entities.

Board Finding: Summary Dismissal

Rationale: The complainant stated that the rejection of his money orders denied him access to telephone privileges required for Propria Persona inmates. During the summer of 2012 the San Diego Sheriff’s Department entered into an agreement with a newly contracted telephone vendor. The previous telephone contractor allowed inmates to use easy-access numbers for contacting the Office of Assigned Counsel and other resources as he represented himself, yet easy-access numbers were not offered by the new vendor. Per the complainant, Correctional Counselors assisted him with the telephone system to make necessary contacts regarding legal matters. The telephone system is operated by a third-party vendor, and ultimately the assistance was provided by non-sworn professional staff, as such the Board lacks jurisdiction.

12-111

1. False Arrest – Deputy 10 arrested the complainant’s son without cause and/or a warrant

Board Finding: Action Justified

Rationale: The complainant said her son had cleared a warrant two months prior to this incident. The Sheriff’s Analysis Driven Law Enforcement (S.A.D.L.E.) team works closely with the Crime Analysis Unit to detect increasing crime in the unincorporated areas of the County. Donald Capie was identified as having a 4th waiver, valid from March 2011 through March 2014, and deputies contacted him for a compliance check for which no warrant was needed. Deputy 7 knocked and announced “Sheriff’s Department” four times, but received no response. Deputy 2 observed Capie through an open door making furtive movements and ordered him outside. Capie instead fled through a side door. Capie was subsequently arrested for a variety of charges related to evidence collected at the residence. The evidence shows the actions that occurred were lawful, justified and proper.

2. Excessive Force - Deputies "roughed-up" the complainant's son.

Board Finding: Action Justified

Rationale: The complainant was not present during this event, but said she was told by neighbors that 7 deputies tackled her 115 pound son to the ground and roughed him up resulting in a bloody face with scrapes all over his body. Deputies reported that Capie fled through a side door right into the pathway of Deputy 9 with his fists balled. As a result Deputy 9 sustained abrasions to his hands, elbow, knees and arm. Deputies 4, 6, 8, 9 and 10 shouted repeated commands to "stop resisting" and attempted to administer body weight to gain control, but Capie balled his fists, flailed his legs and refused to comply. Deputy 4 administered two knee strikes to Capie's

right abdominal region and Deputy 5 delivered two closed fist strikes to Capie's midsection. The force used was effective in overcoming Capie's resistance and once Capie complied, no other force was utilized. Sheriff's Policy & Procedure 2.49, Use of Force allows deputies to utilize force and overcome resistance. The evidence shows the actions that occurred were lawful, justified and proper.

3. Illegal Search - Deputies searched the complainant's home.

Board Finding: Action Justified

Rationale: Donald Capie told deputies he did not live at the complainant's residence, but deputies confirmed the Lakeside residence as being on file with the Probation Department. The search conducted of the resident, the residence, and the property contained inside the residence was related to a verified and valid probationary 4th wavier. Deputies 2 and 6 cleared the basement area where Deputy 2 observed Capie before his arrest, and found a piece of tin foil with burn marks indicating narcotic use. Deputies 1 and 8 searched a bedroom where they found postal mail addressed to Capie at the complainant's residence. In the bedroom, Deputy 1 discovered ammunition and narcotics and Deputy 8 found a drug-testing paraphernalia kit and smoking pipe. Capie's probation prohibits unlawful activity and possession of ammunition. The evidence shows the alleged act or conduct did occur and was lawful, justified and proper.

4. Illegal Seizure - Deputies confiscated from the complainant's residence, items belonging to a family friend.

Board Finding: Action Justified

Rationale: The complainant stated, "The stuff in my front room belongs to my sons friend who had been staying here. All of the stuff in the front room drawers belonged to my sons friend." The complainant failed to identify the alleged items and/or the identity of the "friend," as well as any other supporting evidence related to this allegation. Only one item, a marijuana pipe, was discovered in a bedroom dresser. Deputies 2 and 4 processed the drugs and associated paraphernalia found at the scene, which were sealed in kapak bags and transported to the Property/Evidence Unit until stored in a secured narcotics vault. The Property Item Evidence List identified the contraband seized from the complainant's home and those items confiscated were lawful, justified and proper.

5. Misconduct/Procedure - Deputies damaged and/or left in disarray the complainant's property to include a door, curtains, drawers, etc.

Board Finding: Action Justified

Rationale: Deputy 3 used an entry tool to force access through the complainant's front door. Damage to the entryway was documented with photographs. It is unknown how or if damage occurred to curtains, drawers or any other items in the complainant's absence. Deputies are to take reasonable measures and/or precaution while conducting searches, but disarray may occur and is permissible. The complainant was referred to the County Claims Department, the proper entity for assistance to seek monetary compensation for damages. A claim filed by a third party was rejected and closed with no payment. The evidence shows the alleged conduct as known was lawful, justified and proper.

6. Misconduct/Procedure - Deputy 10 failed to leave documentation for seized items.

Board Finding: Action Justified

Rationale: Receipt of inventory is only required when serving a search warrant. Deputy 10's Arrest Report documented 11 items of seized property to include: Foil with residue x 2, marijuana pipe, ammunition, Diazepam, Citalopram, Letter, Drug testing paraphernalia kit, urine bottle, CD w/ photos and two vials of blood. Narcotics and associated paraphernalia are routinely destroyed and not returned. The evidence shows the alleged act or conduct did occur but was lawful, justified and proper.

12-118

1. Illegal Search or Seizure – Deputies 1 and 3 entered the complainant's home uninvited and searched her home.

Board Finding: Action Justified

Rationale: Deputies 1 and 3 entered and searched the complainant's home pursuant to the complainant's husband's verified Fourth Waiver status. This probationary condition allows law enforcement personnel to search the person on searchable probation, and any property under that person's control, without any particularized suspicion, provided the search is conducted in a reasonable manner. Deputy 3 stood security with the complainants while Deputy 1 searched their home in a manner found to be lawful, justified and proper.

2. Misconduct/Truthfulness – Deputy 3 stated to the complainant that they had conducted a records check and found that her husband had a Fourth Waiver.

Board Finding: Action Justified

Rationale: Deputy 2 conducted a criminal records check on the complainant's husband on the Sheriff's Inquiry Channel and was informed that the complainant's husband was on probation, and had a valid Fourth Waiver for violation of Health and Safety Code § 11377, Unlawful Possession of Restricted Dangerous Drug. Deputy 2 relayed this information to Deputy 3 who was on scene to assist, who in turn, disclosed this information to the complainants. The complainants alleged that Deputy 3 had reported false information to them regarding Mr. Carroll's Fourth Waiver status, claiming that he was no longer on probation and no Fourth Waiver condition on him existed. Superior Court documents, however, revealed that Mr. Carroll was on searchable probation at the time of this contact, with an active Fourth Waiver. The evidence showed that the alleged act did occur, but was lawful, justified and proper.

12-121

1. Misconduct/Procedure – Deputy 1 improperly classified/housed the Administrative-Segregation complainant with a Skinhead, which resulted in injury.

Board Finding: Action Justified

Rationale: Upon arrival at George Bailey Detention Facility (GBDF) the complainant requested to be moved to different housing because he felt threatened by other inmates in the module. He also felt threatened in the proposed module, and was ultimately assigned to a cell in a different housing unit. Shortly after entering the new housing assignment the complainant was reportedly assaulted by his cellmate as directed by other inmates. Deputy 1 assigned the complainant a new housing assignment because he felt threatened by other inmates. Policies and Procedures R.1, Inmate Classification, allows for inmates with like custody levels to be housed together. The complainant and his assailant shared the same classification and there were no known hazards or restrictions which precluded their assignment in the same cell. The evidence showed that the alleged act did occur but was lawful, justified and proper.

2. Misconduct/Procedure – Deputy 2 failed to return the pro-per complainant's property, including legal documents.

Board Finding: Sustained

Rationale: The complainant was transferred from San Diego Central Jail (SDCJ) to GBDF and department records showed two bags of property for the complainant to be sent to GBDF. Department records did not document receipt of his property at GBDF. The complainant never received his property, and there were no records to document the lost property. The evidence supports the allegation and the act or conduct was not justified.

12-135

1. Misconduct/Discourtesy – Deputy 7 yelled at the complainant, "Put your fuckin' hands in your waistband," or used words to that effect.

Board Finding: Sustained

Rationale: Deputy 7 admitted that he yelled at the complainant to “place his fucking hands into his waistband.” The complainant had failed to comply with Deputy 7’s previous instructions, and perceiving this to be an officer safety issue, Deputy 7 used his voice as a command presence tool in an attempt to gain the complainant’s compliance. Sheriff’s Policy 2.22, Courtesy, prohibits employees from using coarse, violent or profane language in the performance of their duties, despite the rationale. The evidence supported the allegation and the conduct was not justified.

2. Excessive Force – Deputy 7 placed handcuffs on the complainant too tightly.

Board Finding: Not Sustained

Rationale: Deputy 7 reported that while struggling with the complainant during this use of force incident, he ordered the complainant to stop resisting and to place his hands behind his back. The complainant continued to resist him and other deputies, requiring Deputy 7 to apply 7 to 8 closed fist strikes to the complainant’s right leg to finally secure him in handcuffs. Deputy 7 denied that he placed handcuffs on the complainant excessively tight and does not recall the complainant stating or indicating that he did. Medical records did not identify any significant marks or bruises to the complainant’s wrists. The complainant provided photographs of linear marks on his wrists, but it cannot be determined when these marks occurred and whether or not they were intentionally inflicted. There was insufficient evidence to either prove or disprove the allegation.

3. Excessive Force – Deputies 2, 3, 4, 5, 7, 8, 9 and 10 beat the complainant after he was handcuffed and shackled.

Board Finding: Not Sustained

Rationale: Deputies 2, 3, 4, 5, 7, 8, 9 and 10 detailed in their Deputy Reports the employment of several department approved Use of Force control compliance techniques which included: using body weight; closed fist strikes, knee strikes and the carotid restraint, in order to gain control of an assaultive inmate. Detentions Policy I.89, Use of Force, allows detentions deputies to use any physical force necessary and objectively reasonable in the defense of self or others, and to overcome resistance. All deputies involved denied that they used any force on the complainant after he was handcuffed and shackled. They also denied observing any other deputies use force once handcuffs were applied. Surveillance video of this incident was not available because the camera angle did not capture this confrontation. There was insufficient evidence to either prove or disprove the allegation occurred after the complainant was handcuffed and shackled.

4. Excessive Force – Deputy 7 kicked the complainant in the face after he was handcuffed and shackled.

Board Finding: Not Sustained

Rationale: Deputy 7 denied that he kicked the complainant in the face before or after he was handcuffed and shackled. Several deputies were involved in this incident requiring force and they all denied observing Deputy 7, or any other deputy kicking the complainant in his face, before or after he was secured in handcuffs. Deputy 5 did document a closed fist strike to the complainant’s face which resulted in injury; however surveillance video of this confrontation was not available due to the camera angle. There was insufficient evidence to either prove or disprove the alleged kick to the complainant’s face after he was handcuffed and shackled.

5. Excessive Force – Deputy 9 grabbed the complainant by the neck and choked him.

Board Finding: Action Justified

Rationale: Deputy 9 responded to a cover call and observed the complainant actively fighting two deputies. To prevent the complainant from injuring the deputies, Deputy 9 attempted to employ a department approved Use of Force control compliance technique – a Carotid Restraint – to control the complainant. Deputy 9’s attempt to successfully apply the carotid restraint failed, due to the complainant actively fighting and head butting him. Detentions Policy I.89, Use of Force, allows detentions deputies to use any physical force necessary and objectively reasonable in the defense of self or others, and to overcome resistance. Deputy 9 used a department approved force technique in an attempt to control the complainant, and his actions were lawful, justified and proper.

6. Excessive Force – Deputy 5 kneed the complainant several times in his thigh.

Board Finding: Not Sustained

Rationale: Deputy 5 denied using any knee strikes. Deputies 2, 4, and 10 did report employing knee strikes to the complainant's legs and body during this Use of Force incident. Pursuant to Policy I.89, Use of Force, detention facility personnel may use any physical force necessary to overcome resistance. Surveillance video of this confrontation was not available due to the camera angle, leaving insufficient evidence to either prove or disprove the allegation.

7. Excessive Force – Deputies 2, 4, and 10 kneed the complainant several times in his thigh.

Board Finding: Action Justified

Rationale: Deputies 2, 4, and 10 reported employing knee strikes to the complainant's legs and body during this Use of Force incident. Pursuant to Policy I.89, Use of Force, detention facility personnel may use any physical force necessary to overcome resistance. Deputies 2, 4, and 10 used department approved Use of Force control compliance techniques to control the complainant, and their actions were lawful, justified and proper.

8. Misconduct/Medical – Medical staff failed to provide treatment to the complainant.

Board Finding: Summary Dismissal

Rationale: Allegations lodged against medical staff are not within the jurisdiction of the Review Board and will be referred to the Sheriff's Department for further investigation and follow-up.

9. Misconduct/Procedure – Deputies 6 and 12 denied the complainant's request for a writing utensil and/or a phone call while placed in "The Hole."

Board Finding: Not Sustained

Rationale: The complainant was placed in Disciplinary Lockdown following a use of force incident. Per Detentions Policy O.1, Disciplinary Action, the complainant would have retained his right to correspondence, but would have lost his privilege to use a phone while in this status. Deputy 6 had no recollection of the complainant or any requests he may have made during his time on disciplinary lockdown. Deputy 12 reported that the complainant did not make any requests to him for a writing utensil and/or a phone call while placed in disciplinary lockdown, nor was he aware of this request being made to any other deputy. There is insufficient evidence to either prove or disprove the allegation.

10. Misconduct/Procedure – Deputies 1 and 11 ignored for several hours the complainant's emergency summons for medical assistance.

Board Finding: Not Sustained

Rationale: The complainant was taken for medical evaluation immediately after a use of force incident, but because he was argumentative, agitated, and did not cooperate with medical personnel, no intervention could be performed at the time. Deputies 1 and 11 were the Control Deputies during the complainant's time in Disciplinary Lockdown and had no recollections of the complainant or being summoned by him for medical assistance. Deputy 1 stated that had he been contacted by the complainant on the cell intercom, his immediate protocol would have been to answer him, inquire into his need, and then radio to the Floor Deputies to check on him. Cell intercom summons and responses are not recorded, leaving insufficient evidence to either prove or disprove the allegation.

11. Misconduct/Procedure – Deputies 6 and 12 provided the complainant with only a sheet while he was in "The Hole".

Board Finding: Not Sustained

Rationale: Deputies 6 and 12 were the Floor Deputies during the complainant's time in Disciplinary Lockdown and had no recollections of the complainant or his provisions while in this placement. Neither Control Deputy

on duty at the time of the complainant's placement in lockdown, recalled the complainant or the items he was provided. There is insufficient evidence to either prove or disprove the allegation.

13-032

1. Death Investigation / Suicide – Deputies 1 & 3 discovered Inmate Anna Wade hanging in her cell from a bed sheet.

Board Finding: Not Sustained

Rationale: There was no complaint of wrongdoing and a review was done in accordance with CLERB Rules & Regulations. During an inspection, Deputies 1 and 3 discovered the decedent hanging from a bed-sheet in her single occupancy, locked cell. Upon discovery, deputies called Code Blue and initiated life-saving measures with medical personnel in compliance with policy. The Medical Examiner determined the cause of death was hanging by suicide. The exact time of death is unknown. There was insufficient information to determine if a mandated security check that was not performed, could have precluded this suicide in any way.

2. Misconduct/Procedure – Deputy 5 logged a security check that was not performed by Deputies 2 and 3.

Board Finding: Sustained

Rationale: There was no complaint of wrongdoing and a review was done in accordance with CLERB Rules & Regulations. The homicide investigation determined Deputy 5 violated Sheriff's Policy & Procedure I.64, Security Checks of Housing Units and Holding Cells, by incorrectly logging an hourly security check as being complete. Deputy 5 mistakenly assumed deputies who were distributing medication did a visual inspection of all inmates. Due to this misunderstanding, there was almost a two-hour gap prior to Deputies 1 and 3 discovering the hanged decedent. Deputy 5 acknowledged the error of logging an inaccurate security check, but stated the floor deputies (3 and 4) were responsible for conducting checks. A Detentions Information Source clarified that it's a shared responsibility for all deputies assigned to a housing unit to conduct and document security checks. That withstanding, the Station deputy, who maintains a timer for this very purpose, must communicate to other staff when an hourly check is needed. Deputy 5 failed to inform floor deputies that a security check was needed in conjunction with the other tasks being performed. The evidence supports the allegation and the conduct was not justified.

13-037

1. Misconduct/Procedure – PO 1 failed to work with the complainant to coordinate his probationary terms with his new work schedule.

Board Finding: Action Justified

Rationale: The complainant was released from state prison and subject to Post Release Community Supervision with the San Diego County Probation Department, which required, in part, that he seek and maintain full-time employment and complete an outpatient drug treatment program. PO 1 directed the complainant to attend MHS Regional Recovery Center Central; an outpatient treatment program that offers probationers day and evening sessions to accommodate their work schedules. On three separate occasions, PO 1 completed intake referrals to this program on the complainant's behalf, but the complainant failed to appear. PO 1 reported that it was the complainant's responsibility to contact treatment staff and to coordinate an acceptable schedule that would enable him to attend classes while being employed. PO 1 worked to support the complainant and to ensure that he abided by his Post Release Community Supervision Conditions, and her actions were lawful, justified and proper.

13-054

1. Misconduct/Procedure – Deputy 1 conducted himself in an unprofessional and unbecoming manner

Board Finding: Summary Dismissal

Rationale: The alleged misconduct by Deputy 1 was not supported by evidence, and therefore the complainant failed to establish a prima facie showing of misconduct. Such complaints may be referred to the Review Board for Summary Dismissal, pursuant to CLERB Rules & Regulations: Section 9: Investigation of Complaints; Subsection 9.2: Screening of Complaints.

End of report